# BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

CHRISTINA M. SPOON Claimant	)
VS.	)
HOMESTEAD HEALTH CENTER INC. Respondent	) ) ) Docket No. <b>261,552</b>
AND	)
BUSINESS INSURANCE CO. Insurance Carrier	) ) )

## ORDER

Respondent and insurance carrier request review of a preliminary hearing order for compensation entered by Administrative Law Judge John D. Clark on January 5, 2001.

## **I**SSUES

The issues listed in the respondent's application for review are: (1) whether the Administrative Law Judge erred in finding that the claimant suffered personal injury by accident arising out of and in the course of her employment; and, (2) whether the Administrative Law Judge erred in finding that the claimant provided timely notice.

#### FINDINGS OF FACT & CONCLUSIONS OF LAW

Having reviewed the whole evidentiary record filed herein, the Board makes the following findings of fact and conclusions of law:

After the Administrative Law Judge had made inquiry and determined that respondent received timely notice of hearing, this matter proceeded to preliminary hearing without an appearance on respondent's behalf.

It was the claimant's uncontroverted testimony that she sustained injury to her neck, left shoulder and arm on October 13, 2000. The claimant was employed as a certified

nurse's aide for the respondent and in that capacity was injured while lifting a resident and putting him to bed.

The claimant initially noticed pain in her left shoulder but didn't feel it was very serious. However, by the time she got home that evening she was in intense pain. By Sunday the pain had become so severe that the claimant sought emergency room treatment.

The following day, Monday, October 16, 2000, the claimant reported the injury to a supervisor and was referred to the company physician. Dr. Wilson imposed a 15-pound lifting restriction and the respondent was not able to put the claimant back to work.

As previously noted, there was no appearance on respondent's behalf. The claimant's uncontradicted testimony establishes that she sustained personal injury by accident arising out of and in the course of her employment on October 13, 2000, and gave timely notice of the incident to the respondent.

## <u>AWARD</u>

**WHEREFORE,** it is the finding, decision and order of the Board that the preliminary order entered herein by Administrative Law Judge John D. Clark on January 5, 2001, should be and is hereby affirmed.

II IS SO ORDERED.	
Dated this day of March 2001.	
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ı	BOARD MEMBER

## Copies to:

Dennis L. Phelps, Attorney for Claimant

Ronald J. Laskowski, Attorney for Respondent

John D. Clark, Administrative Law Judge

Philip S. Harness, Workers Compensation Director